

Serial No.: 09/415,632
Docket No.: 49335.0300

Remarks:

Applicants hereby reply to the Office Action mailed May 19, 2005 and request a three month extension of time. Applicants also hereby file an RCE. Claims 1-12 were pending in the application, all of which were rejected by the Examiner. Reconsideration is respectfully requested.

Rejections under 35 U.S.C. §102(e)

The Examiner rejects claims 1-10 under 35 U.S.C. § 102(e) as being anticipated by Simpson (U.S. Patent No. 6,070,153). Applicants respectfully traverse this rejection.

"Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. [citations omitted.] If, however, the disclosure is sufficient to show that the natural result from the operation as taught would result in the performance of the questioned function, it seems to be well settled that the disclosure should be regarded as sufficient." (quoting *In re Oelrich*, 666 F.2d 578, 581 (CCPA 1981)). The Simpson reference is not sufficient to show that the "natural result" of funding an investment account is to always use hierarchies. Many funding systems exist that do not use hierarchies for funding an investment account, so the mere fact that hierarchies *may* result based upon the Simpson disclosure is insufficient.

Furthermore, Simpson generally discloses a system for automatically investing a portion of previously paid interest charged amounts. The Simpson system is limited to depositing in an investment account a set percentage of an amount charged, cash advanced, or interest paid. Such investments are funded by the credit card or the issuer. The system may also add a set amount or percentage of the amount of a transaction to the billed transaction amount, which is funded by the cardholder. The cardholder may also pre-determine a monthly amount to be billed, which is deposited into an investment account. In all of these embodiments, the Simpson system is limited to depositing separately remitted funds into an IRA or investment account and reporting the results of the investments in a joint statement. Accordingly, Simpson does not disclose or suggest, "accepting a combined remittance from said user," "applying hierarchy rules to said combined remittance to determine a portion to be allocated to said at least one investment product," "applying payment hierarchy rules to said investment funds," nor "distributing said investment funds to said at least one investment product in accordance with said payment hierarchy rules" (emphasis added), as all similarly recited by independent claims 1 and 6.

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Dependent claims 2-5 and 7-10 variously depend from independent claims 1 and 6, so dependent claims 2-5 and 7-10 are patentable for at least the same reasons for differentiating the independent claims from Simpson, as well as in view of their own respective features.

Rejections under 35 U.S.C. §103(a)

The Examiner next rejects claims 11-12 under 35 U.S.C. §103(a) as being unpatentable over Simpson (U.S. Patent No. 6,070,153) in view of Sandberg-Diment (U.S. Patent No. 5,826,245). Applicants respectfully traverse this rejection

Dependent claims 11-12 depend from independent claims 1 and 6, respectively, so dependent claims 11-12 are patentable for at least the same reasons for differentiating the independent claims from Simpson, as well as in view of their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as its invention and are allowable over the cited prior art. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. Applicants authorize and request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: November 18, 2005

By: 

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